



DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REGULATION OF WASTES CONTAINING PCBs AT 329 IAC 4.1

LSA Document #05-219(SWMB)

Overview

This rulemaking proposes to amend 329 IAC 4.1 concerning regulation of wastes containing PCBs, as well as readopting the rule for the purposes of IC 13-14-9.5. The rule amendments serve to update the incorporation by reference of the Code of Federal Regulations; update viewing/copying information; clarify public notice requirements; remove the language relating to manifests to reflect the current statute; correct certain notification/authorization requirements; clarify and update disposal options.

Citations Affected

Readopts and amends 329 IAC 4.1.

Affected Persons

This rule applies to a person who disposes of any solid or liquid waste containing PCBs.

Reason(s) for the Rule

This rulemaking was initiated to readopt 329 IAC 4.1 while amending the rule to correct, clarify and update certain provisions.

Economic Impact of the Rule

Nonsubstantive corrections being proposed with this rulemaking may potentially have very limited fiscal impact on regulated entities affected by this rule. Since IDEM is not proposing any new substantive requirements at this time, we do not expect that this rule will result in any new costs. Under existing solid waste rules the economic impact for non-municipal solid waste landfills (MSWLFs) would include fees for minor modification to a permit of \$2,500,00, if needed. This applies

only to persons utilizing the new allowance for non-MSWLFs to potentially accept PCB waste if the landfill permittee obtains a minor modification and adds PCBs to the list of waste types that may be accepted for disposal. Some limited cost savings may result from streamlining and improvement of the rule.

Benefits of the Rule

The rule must be readopted under IC 13-14-9.5 or it will expire in January 2007. Updating references, correcting obsolete information, and streamlining certain requirements will serve to make the rule easier for the regulated community to adhere to.

Description of the Rulemaking Project

While readopting the rule per IC 13-14-9.5, IDEM is also proposing to make specific changes to the rule, including the following:

- Update the incorporated by reference Code of Federal Regulations to the July 1, 2003 edition. Eliminate Table 1 and 2, and specify the version of secondary incorporations not dated in the federal rules.
- Since the adoption of the PCB rule, 329 IAC 3.1-7-7 that established the Indiana hazardous waste manifest and prohibited uses of the manifest other than manifesting hazardous waste shipments, was repealed as required by P.L. 143-2000. That statute eliminated the Indiana hazardous waste manifest and required use of the Uniform Hazardous Waste Manifest (EPA Form 8700-22). Since 40 CFR 761.207(b) allows use of the Uniform Hazardous Waste Manifest, there is no longer a reason to except that section.

- Clarify public notice requirements.
- Remove references to repealed rule 329 IAC 10-8.1. Correct and simplify certain notification/authorization requirements.
- Make other appropriate changes based on comments received in the rulemaking process. As addressed in the First Notice of this rulemaking, all sections of 329 IAC 4.1 are proposed to be amended under this rulemaking so 329 IAC 4.1 will be readopted for purposes of IC 13-14-9.5 through this rulemaking.

Scheduled Hearings

First Public Hearing: March 21, 2006.

Second Public Hearing: July 18, 2006.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal rules.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then

published which contains the comments and the departments responses from the first comment period, a notice of first public hearing, and the draft rule. The Solid Waste Management Board holds the first public hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second public hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Indiana Register.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Kiran Verma, Rules, Planning & Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana). Technical information regarding this rulemaking action can be obtained from George Ritchotte, Industrial Waste Section I, Office of Land Quality, (317) 308-3123 or (800) 451-6027 (in Indiana)